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October 19, 2017

Frank W. Banta, Jr. Manager, Member Chem Carriers, L.L.C. 1237 Highway 75 Sunshine, LA 70780

Chem Carriers, L.L.C. c/o Stephen P. Jewell, Registered Agent 143 East Main Street, Suite #3 New Roads, LA 70760

Re:

Notice of Intent to File Citizen Suit Under Section 505(b)(1) of the Federal Water Pollution Control Act ("Clean Water Act"), 33 U.S.C. § 1365(b)

Dear Mr. Banta:

This letter is to give you notice that the Louisiana Environmental Action Network, Inc. ("LEAN") and the Lower Mississippi RIVERKEEPER® intend to sue Chem Carriers, L.L.C. ("Chem Carriers") for chronically polluting the Mississippi River for the past five years, in violation of the terms of its discharge permit issued under the Louisiana Pollution Discharge Elimination System ("LPDES permit"). These violations relate to Chem Carriers' barge cleaning and repair facility, located at the Plaquemine Point Shipyard, 1070 River Road, Sunshine, Louisiana. The violations constitute violations of sections 301, and 402 of the federal Clean Water Act, 33 U.S.C. §§ 1311, 1342.

Pursuant to Chem Carriers' permit, the company may not discharge pollutant-containing wastewater into the Mississippi River unless it complies with the permit's terms. In particular, in order to protect public health and the environment, the permit contains maximum limits for various constituents such as biochemical oxygen demand ("BOD"), total suspended solids ("TSS"), and Fecal Coliform, and both maximum and minimum limits for pH levels, as set by the Louisiana Department of Environmental Quality ("LDEQ"). Likewise, the permit requires regular and accurate monitoring and reporting associated with these constituents. Moreover, in order to ensure proper compliance, the permit requires Chem Carriers to employ best management practices, which necessarily include proper staff training concerning monitoring and reporting requirements and overall operations.

¹ During the five-year period of time covered by this notice, two different versions of permit number LA0059455 applied to Chem Carriers' activities. The first version took effect September 1, 2010 and governed until superseded by the current permit, effective July 1, 2016.

By repeatedly discharging wastewater containing levels of pollutants higher than those allowed, and violating the terms of its permit related to sampling frequency, Chem Carriers has exposed the public and the environment to an unnecessary and unacceptable risk of harm. Chem Carriers is in violation of the Clean Water Act and must take immediate action to come into compliance.

I. Identity of Complainants

A. Louisiana Environmental Action Network, Inc.

LEAN is a Baton Rouge-based umbrella organization established to promote and protect the health of Louisiana's natural environment for the use and enjoyment of the people of Louisiana. In executing its purpose, LEAN ensures that the laws and regulations of the State, intended to preserve and enhance its natural resources and environmental quality, are diligently followed in letter and in spirit. LEAN has a particular interest in the preservation and restoration of water quality in the rivers and streams of Louisiana, and in protecting its members from exposure to public health risks. In addition, LEAN's interest in water quality flows directly from the personal interests of its members who own property, live, and/or work adjacent to the affected portion of the Mississippi River, and who use those waters that receive the contaminated discharges from Chem Carriers' facility for recreation, boating, swimming, and aesthetic enjoyment. Water pollution and threats to water quality from Chem Carriers' facility and its repeated violation of its permit directly harm these members of LEAN. LEAN can be reached as follows:

Louisiana Environmental Action Network, Inc. P.O. Box 66323
Baton Rouge, LA 70896

Phone: (225) 928-1315

B. Lower Mississippi RIVERKEEPER®

The Lower Mississippi RIVERKEEPER® ("LMR") works with local communities to address the polluted state of the Mississippi River, which travels through 31 states and drains 2,350 square miles, making it one of the most endangered rivers in the United States. LMR energizes current activists to participate in environmental decisions, and educates the public and government leaders about environmental challenges and economic opportunities regarding the Mississippi River and how reduced water pollution benefits everyone. As part of its work, LMR monitors water quality, investigates reported pollution-related incidents, and seeks to compel polluters to comply with the Clean Water Act to reduce pollution in the River for the benefit of surrounding communities' health and the health of the environment. LMR is a member of LEAN.

Additionally, LMR is part of the international Waterkeeper Alliance, which provides a way for communities to stand up for their right to clean water and for the wise and equitable use

of water resources, both locally and globally. The vision of the Waterkeeper movement is for fishable, swimmable and drinkable waterways worldwide, which the organization seeks to achieve through grassroots advocacy.

Members of LMR own property, live, and/or work adjacent to the affected portions of the Mississippi River, and use those waters that receive the contaminated discharges from Chem Carriers' facility for recreation, boating, swimming, and aesthetic enjoyment. Water pollution and threats to water quality from Chem Carriers' facility and its repeated violation of its permit directly harm these members of LMR. LMR can be reached as follows:

Lower Mississippi RIVERKEEPER® c/o The Louisiana Environmental Action Network P.O. Box 66323
Baton Rouge, LA 70896
Phone: 225-928-1315

II. Effect of the Violations on Public Resources

The LPDES permit allows Chem Carriers to discharge limited quantities of pollutants into the Mississippi River. As LMR recognizes:

The Mississippi River Basin is home to 1.5 million people, and over 350 industrial and municipal facilities are located adjacent to the River within the state of Louisiana. Approximately 175 of these facilities discharge wastewater into the river under the authority of state/federal permits, and of these approximately 120 facilities are located between Baton Rouge and New Orleans. Noncompliance with wastewater discharge permits by a large number of facilities along the River is widespread . . . In addition to the industrial pollution[,] when the Mississippi River flows into Louisiana it already contains a variety of chemicals including the herbicide Atrazine, which originates in stormwater runoff from agricultural fields in mid-western states and presents a potential health hazard. This places a particular burden on the Communities from Ascension Parish to the mouth of the Mississippi River that use surface water as their only source of drinking water.²

Thus, any permit violations by Chem Carriers cannot be viewed in isolation but also have a deleterious cumulative effect on the health of the Mississippi River and neighboring communities. Each violation compounds the preexisting threat to the residents and environment of the lower Mississippi River, which is impaired due to the activities of many industrial and agricultural users.

III. Legal Overview

Section 301 of the Clean Water Act prohibits the "discharge of any pollutant by any

² http://lmrk.org/the-mississippi-river/

person" without proper authorization, such as in compliance with the terms of a permit issued under Section 402. 33 U.S.C. § 1311(a). Section 402 establishes the National Pollutant Discharge Elimination System, a permitting program regulating the discharge of pollutants by industrial facilities, and provides for the issuance of such permits by individual States. 33 U.S.C. § 1342(h). In Louisiana, the issuance of such permits (known as LPDES permits) has been delegated to the Louisiana Department of Environmental Quality. Part III.A.2 of the applicable LPDES permit mandates compliance "with all conditions," making "[a]ny permit noncompliance . . . grounds for enforcement action" and a violation of both the Clean Water Act and the Louisiana Environmental Quality Act.

Congress provided for enforcement of the discharge limitations in the Clean Water Act through citizen suits like the potential suit noticed in this letter. Title 33 U.S.C. § 1365 permits a citizen to bring a claim for a violation of any effluent standard or limitation under the Act. Violation of an NPDES permit is a violation of an effluent standard or limitation and is actionable under the citizen suit provision of the Clean Water Act. Please note that when reporting is monthly, each month showing a violation of a parameter constitutes a separate violation of that parameter for each day of the month, or until the next valid test result demonstrating compliance is submitted. The same applies for the quarterly and semi-annual reporting that the facility undertakes.

IV. Specific Violations

Over the past five years, Chem Carriers has repeatedly violated multiple provisions of its LPDES permit at eight different outfalls: (A) Outfall 001; (B) Outfall 04A; (C) Outfall 04B; (D) Outfall 005; (E) Outfall 006; (F) Outfall 008; (G) Outfall 009; and (H) Outfall 011.³ Additionally, (I) the widespread and repeated nature of the violations is indicative of further permit violations related to best management practices. The violations documented in this notice are based on a review of discharge monitoring reports ("DMRs") and other documents maintained in LDEQ's Electronic Document Management System ("EDMS") and associated with Agency Interest Number 8056.

All exceedances of LPDES permit standards violate the duty to comply in Part III.A.2 and are grounds for enforcement action. Part III.C.5 of the permit specifies procedures for

³ LDEQ issued a Compliance Order and Notice of Potential Penalty to Chem Carriers in January 2016 related primarily to hazardous waste but also citing lack of LPDES best management practices to prevent piles of accumulated sandblasting debris from entering the river, violations of effluent limitations between 2011 and 2014, and improper outfall sampling between 2011 and 2015. A subsequent Notice of Deficiency in October 2016 identified an addition handful of LPDES effluent violations and noted that the facility's storm water pollution prevention plan ("SWPP") was out of date. Upon information and belief, LDEQ has never penalized Chem Carriers for its repeated LPDES violations, and LDEQ's limited enforcement actions have been insufficient to deter further noncompliance and protect human health and the environment. Rather than accepting responsibility for its conduct, Chem Carriers has disputed LDEQ's enforcement actions through administrative proceedings.

monitoring. Part III.D.4 of the permit requires that "[m]onitoring results shall be reported at the intervals and in the form specified[.]" In turn, Part II.Z requires sampling results to be reported on DMRs submitted to LDEQ by the 28th of the month following the end of the monitoring period. Monitoring results must be submitted on an EPA form No. 3320-1 or approved substitute, and, in accordance with Part III.D.10.d, the principal executive officer or authorized agent must "certify under penalty of law that . . . the information submitted is . . . true, accurate, and complete."

A. Chem Carriers (i) has repeatedly violated numerical effluent limitations at Outfall 001, and (ii) has failed to properly report all exceedances in its quarterly monitoring reports.

Part I of the LPDES permit requires weekly monitoring of certain parameters and monthly monitoring of other constituents at Outfall 001, "the intermittent discharge of chemical and petroleum vessel washwater." Specifically, sampling is necessary when a discharge comes from a barge used to transport certain types of chemical cargo, including petroleum products, acids, and organic compounds such as acetone, toluene, and methyl ethyl ketone.

i. Numerical Exceedances

The permit contains numerical limitations for each monitored constituent, including TSS, cadmium, BOD, copper, and lead. The following chart reflects a total of 34 exceedances of permit standards, based on discharge monitoring reports ("DMRs") submitted by Chem Carriers to LDEQ:

Monitoring Period	Constituent	Standard	Result	Days
05/01/2015-05/31/2015	TSS	26 average	32	31
05/01/2015-05/31/2015	Cadmium	0.020 maximum	0.029	31
02/01/2015-02/28/2015	TSS	26 average	32	28
02/01/2015-02/28/2015	Cadmium	0.020 maximum	0.029	28
11/01/2014-11/30/2014	TSS	26 average	32	30
11/01/2014-11/30/2014	Cadmium	0.020 maximum	0.029	30
08/01/2014-08/31/2014	TSS	26 average	32	31
08/01/2014-08/31/2014	Cadmium	0.020 maximum	0.029	31
05/01/2014-05/31/2014	TSS	26 average	32	31
05/01/2014-05/31/2014	Cadmium	0.020 maximum	0.029	31
02/01/2014-02/28/2014	TSS	26 average	32	28
02/01/2014-02/28/2014	Cadmium	0.020 maximum	0.029	28
11/01/2013-11/30/2013	TSS	26 average	32	30
11/01/2013-11/30/2013	Cadmium	0.020 maximum	0.029	30
08/01/2013-08/31/2013	TSS	26 average	32	31
08/01/2013-08/31/2013	Cadmium	0.020 maximum	0.029	31
06/01/2013-06/30/2013	TSS	26 average	97.5	30

		Total Days In V	iolation	1,020
11/01/2012-11/30/2012	Lead	0.14	0.746	30
11/01/2012-11/30/2012	TSS	58 maximum	150	30
11/01/2012-11/30/2012	TSS	26 average	150	30
02/01/2013-02/28/2013	Copper	0.1	0.409	28
02/01/2013-02/28/2013	TSS	58 maximum	89.7	28
02/01/2013-02/28/2013	TSS	26 average	54.3	28
03/01/2013-03/31/2013	TSS	58 maximum	279	31
	TSS	26 average	279	31
03/01/2013-03/31/2013	BOD	21 average	54	31
03/01/2013-04/30/2013	TSS	58 maximum	104	30
04/01/2013-04/30/2013	TSS	26 average	81	30
04/01/2013-04/30/2013	BOD	61 maximum	103	30
04/01/2013-04/30/2013 04/01/2013-04/30/2013	BOD	22 average	42	30
05/01/2013-05/31/2013	TSS	26 average	36	31
05/01/2013-05/31/2013	BOD	61 maximum	102	31
05/01/2013-05/31/2013	BOD	22 average	53	31
06/01/2013-06/30/2013	TSS	58 maximum	97.5	30

Compliance with numerical standards is essential to avoid actual harm to the environment of the Mississippi River and surrounding communities. Monitoring for TSS, in particular, is important because elevated TSS levels can lead to decreased photosynthesis and water clarity and increased water temperatures, which are harmful to the health of aquatic habitats. Suspended solids can also clog fish gills.4 Additionally, BOD "measures the amount of oxygen consumed by microorganisms in decomposing organic matter in stream water," and "the chemical oxidation of inorganic matter (i.e., the extraction of oxygen from water via chemical reaction) . . . The greater the BOD, the more rapidly oxygen is depleted in the [waterbody]. This means less oxygen is available to higher forms of aquatic life . . . aquatic organisms become stressed, suffocate, and die."5 Next, acute exposure to cadmium (a metal used in industrial manufacturing) can kill aquatic life, and chronic exposure "can lead to adverse effects on growth, reproduction, immune and endocrine systems, development, and behavior in aquatic organisms."6 Moreover, while copper "is an essential nutrient at low concentrations," this metal "is toxic to aquatic organisms at higher concentrations," and chronic exposure "can lead to adverse effects on survival, growth, reproduction as well as alterations of brain function, enzyme activity, blood chemistry, and metabolism." Finally, exposure to lead can result in serious consequences at low levels, especially among infants and young children. "In children, low levels of exposure have been linked to damage to the central and peripheral nervous system, learning disabilities, shorter

 $^{^4\} http://www.fondriest.com/environmental-measurements/parameters/water-quality/turbidity-total-suspended-solids-water-clarity/\#Turbid5$

⁵ https://archive.epa.gov/water/archive/web/html/vms52.html

⁶ https://www.epa.gov/wqc/aquatic-life-criteria-cadmium

⁷ https://www.epa.gov/wqc/aquatic-life-criteria-copper

stature, impaired hearing, and impaired formation and function of blood cells."8

ii. Reporting of Violations

In multiple quarterly reports, Chem Carriers represented that it collected and shipped offsite all washwaters, meaning that there were no discharges associated with Outfall 001. But in corresponding DMRs, Chem Carriers reported exceedances at Outfall 001 for TSS and Cadmium. The following chart documents the inconsistencies:

Quarterly Report Declaring No Discharge	Corresponding DMR Reporting
	Exceedance
2015 – Second Quarter	05/01/2015-05/31/2015
2015 – First Quarter	02/01/2015-02/28/2015
2014 – Fourth Quarter	11/01/2014-11/30-2014
2014 – Third Quarter	08/01/2014-08/31/2014
2014 - Second Quarter	05/01/2014-05/31/2014
2014 - First Quarter	02/01/2014-02/28/2014
2013 – Fourth Quarter	11/01/2013-11/30/2013

The EDMS database contains a letter from Chem Carriers dated April 14, 2016, claiming that there has not been a discharge of chemical or petroleum barge washwater from Outfall 001 since 2003 and referencing the submission of revised DMRs "to reflect that there was no discharge for several monitoring periods." As the letter does not specify the dates subject to revision and the revised DMRs are not included in the EDMS database, LEAN and LMR have noticed all reported violations for Outfall 001, unless and until Chem Carriers can provide satisfactory documentation addressing the discrepancies.

B. Chem Carriers has repeatedly violated numerical effluent limitations and sampling-frequency requirements at Outfall 04A.

As with Outfall 001, Part I of the LPDES permit contains a list of parameters and numerical standards for monitoring associated with Outfall 04A, "the intermittent discharge of incoming ballast water and void water." Sampling for pH, among other constituents, must be performed weekly. Consistent with Part II.P of the permit, "[d]ischarges which exceed the specified limits must be reported to LDEQ as excursions."

 $^{^{8}\} https://www.epa.gov/ground-water-and-drinking-water/basic-information-about-lead-drinking-water\#health$

The chart below reflects a number of exceedances of permit standards and sampling-frequency violations:

Monitoring Period	Constituent	Standard	Measurement	Commonto
05/01/2016- 05/31/2016	pН	6 instantaneous min/ 9 instantaneous max	5.71 min	
04/01/2016- 04/30/2016	pH 6 instantaneous min/ 9 instantaneous max			improper sampling
03/01/2016- 03/31/2016	pН	6 instantaneous min/ 9 instantaneous max	none	no results reported improper sampling no results reported
02/01/2016- 02/29/2016	pН	6 instantaneous min/ 9 instantaneous max	none	improper sampling no results reported
01/01/2016- 01/31/2016	pН	6 instantaneous min/ 9 instantaneous max	none	improper sampling
06/01/2015- 06/30/2015	COD	250	none	improper sampling
06/01/2015- 06/30/2015	рН	6 instantaneous min/ 9 instantaneous max	none	improper sampling,
06/01/2015- 06/30/2015	O&G	15	none	no results reported improper sampling, no results reported
06/01/2015- 06/30/2015	Flow	REPORT	none	improper sampling, no results reported
10/01/2014- 10/31/2014	pН	6 instantaneous min/ 9 instantaneous max	none	failure to sample
07/01/2014- 07/31/2014	рН	6 instantaneous min/ 9 instantaneous max	9.53	n/a
334	Total Days In	Violation		

As stated above, compliance with numerical standards is essential to avoid actual harm to the environment of the Mississippi River and surrounding communities. Monitoring for pH is especially important, as "[e]xtremes in pH can make a river inhospitable to life. Low pH is especially harmful to immature fish and insects. Acidic water also speeds the leaching of heavy metals harmful to fish."

Proper sampling and reporting are necessary to provide an accurate picture of Chem Carriers' compliance or lack of compliance with the numerical discharge limits contained within its LPDES permit. Each and every exceedance is a violation of the permit. When Chem Carriers fails to monitor, it becomes impossible to determine Chem Carriers' compliance for that monitoring period. An exceedance that occurred during an interval that Chem Carriers failed to sample would go unnoticed and unreported. Any resulting harm to the environment would go unmitigated, and the public would receive no health-and-safety warning to limit their use of the affected segment of river.

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⁹ https://www.grc.nasa.gov/www/k-12/fenlewis/Waterquality.html

According to the NPDES Permit Writers Manual, more frequent monitoring is especially important where there is "[a] highly variable discharge" with regard to pollutant concentration and flow. Othem Carriers' discharges at Outfall 04A have shown high variability, with pH ranging from 5.71 (an acidic level below the minimum threshold) to 9.53 (a basic level above the maximum level). Likewise, "[a] facility with problems achieving compliance generally should be required to perform more frequent monitoring to characterize the source or cause of the problems or to detect noncompliance." *Id.* Chem Carriers has a history of noncompliance with numerical effluent limitations throughout its various outfalls, as documented in this notice, which further illustrates the importance of proper monitoring and the seriousness of its failure-to-sample violations.

C. Chem Carriers has repeatedly failed to sample Outfall 04B at the required frequency.

Outfall 04B is "the intermittent discharge of facility ballast water and void water." Part I of the LPDES permit contains a list of parameters and numerical standards for monitoring associated with this outfall. Sampling for pH must be performed monthly.

The following chart reflects a total of six pH sampling-frequency violations (three each for instantaneous minimum and instantaneous maximum):

Monitoring Period	Constituent	Standard	Measurement	Comments
09/01/2016-09/30/2016	рН	6 instantaneous min/ 9 instantaneous max	none	failure to sample
08/01/2016-08/31/2016	рН	6 instantaneous min/ 9 instantaneous max	none	failure to sample
07/01/2016-07/31/2016	pН	6 instantaneous min/ 9 instantaneous max	none	failure to sample
92	Total Days in	Andrew State of the Control of the C		Tanare to sample

Proper sampling, in general, and proper sampling of pH, in particular, is important for the reasons discussed above.

D. Chem Carriers has repeatedly failed to sample Outfall 005 at the required frequency.

Chem Carriers must monitor Outfall 005, "the intermittent discharge of uncontaminated stormwater from containment barges," in accordance with the parameters established in Part I of the LPDES permit. Sampling for TOC, O&G, and pH must be performed quarterly. The

¹⁰NPDES Permit Writers Manual 8.1.3 (September 2010).

following chart documents the sampling-frequency violations associated with Outfall 005:

Monitoring Period	Constituent	Standard	Measurement	Comments
04/01/2015-06/30/2015	рH	6 instantaneous min/ 9 instantaneous max	none	improper sampling no results reported
04/01/2015-06/30/2015	O&Ġ	15	none	improper sampling no results reported
04/01/2015-06/30/2015	TOC	50	none	improper sampling, no results reported
04/01/2015-06/30/2015	Flow	REPORT	none	improper sampling, no results reported
01/01/2015-01/31/2015	pН	6 instantaneous min/ 9 instantaneous max	none	failure to sample
01/01/2015-01/31/2015	O&G	15	none	failure to sample
01/01/2015-01/31/2015	TOC	50	none	failure to sample
01/01/2015-01/31/2015	Flow	REPORT	none	failure to sample
07/01/2014-07/31/2014	рН	6 instantaneous min/ 9 instantaneous max	none	failure to sample
07/01/2014-07/31/2014	O&G	15	none	
07/01/2014-07/31/2014	TOC	50	none	failure to sample failure to sample
07/01/2014-07/31/2014	Flow	REPORT	none	failure to sample
01/01/2014-01/31/2014	pН		none	failure to sample
01/01/2014-01/31/2014	O&G	15	none	failure to sample
01/01/2014-01/31/2014	TOC	50	none	failure to sample
01/01/2014-01/31/2014	Flow	REPORT	none	failure to sample
92	Total Days In	Violation		zamare to sample

Proper sampling, in general, and proper sampling of pH, in particular, is important for the reasons discussed above. For similar reasons, it is important for the public and LDEQ to have an accurate understanding of the levels of total organic compounds and oil and grease in the waterways, as these measurements are indicative of overall water quality.

E. Chem Carriers has repeatedly violated numerical effluent limitations and sampling-frequency requirements at Outfall 006.

Chem Carriers must monitor Outfall 006, "the intermittent discharge of boiler condensate," for the parameters identified in Part I of the LPDES permit. Sampling for pH must be performed quarterly. The following chart reflects two exceedances of permit standards and two pH sampling-frequency violations (one each for instantaneous minimum and instantaneous

maximum):

Monitoring Period	Constituent	Standard	Measurement
04/01/2016-06/30/2016	рН	6 instantaneous min/ 9 instantaneous max	10.77
01/01/2016-03/31/2016	pН	6 instantaneous min/ 9 instantaneous max	improper sampling, no result reported
07/01/2013-09/30/2013	pН	6 instantaneous min/ 9 instantaneous max	11.3
274	Total Days In	Violation	-

As stated above, compliance with numerical standards is essential to avoid actual harm to the environment of the Mississippi River and surrounding communities. Likewise, proper sampling, in general, and proper sampling of pH, in particular, is important for the reasons discussed above.

F. Chem Carriers failed, on one occasion, to sample both instantaneous minimum pH and instantaneous maximum pH at Outfall 008.

As with the outfalls identified above, Part I of the LPDES permit contains a list of parameters and numerical standards for monitoring associated with Outfall 008, "the intermittent discharge of once-through non-contact cooling water from the Tool Room HVAC." Sampling for pH must be performed quarterly and must include both an instantaneous minimum and an instantaneous maximum value. The following chart provides more information regarding these sampling-frequency violations:

Monitoring Period	Constituent	Standard	Measurement	Comments
07/01/2014-09/30/2014		6 instantaneous min/ 9 instantaneous max		failure to sample
92	Total Days In	n Violation		randre to sample

Proper sampling, in general, and proper sampling of pH, in particular, is important for the reasons discussed above.

G. Chem Carriers has repeatedly violated numerical effluent limitations and repeatedly violated sampling-frequency requirements at Outfall 009.

Chem Carriers must monitor Outfall 009, "the intermittent discharge of treated sanitary wastewater from the Administrative Office," in accordance with the list of parameters and numerical standards in Part I of the LPDES permit. The sampling requirement for constituents including BOD, TSS, Fecal Coliform, and pH was semiannual under the 2010 permit, and Chem Carriers has been required to conduct quarterly sampling since July 1, 2016.

The following chart reflects a multitude of exceedances of permit standards and sampling-frequency violations associated with Outfall 009:

Monitoring Period	Constituent	Standard	Measurement
10/01/2016-12/31/2016	BOD	30 monthly average	35.6
10/01/2016-12/31/2016	TSS	30 monthly average	30.8
10/01/2016-12/31/2016	Fecal Coliform	200 monthly average	
10/01/2016-12/31/2016	Fecal Coliform	400 daily maximum	1430
07/01/2016-09/30/2016	Fecal Coliform	200 monthly average	880
07/01/2016-09/30/2016	Fecal Coliform	400 daily maximum	880
01/01/2016-06/30/2016	BOD	30 monthly average	63.5
01/01/2016-06/30/2016	BOD	45 daily maximum	63.5
01/01/2016-06/30/2016	Fecal Coliform	200 monthly average	840
01/01/2016-06/30/2016	Fecal Coliform	400 daily maximum	840
07/01/2015-12/31/2015	Fecal Coliform	200 monthly average	2-5-10-10-10-10-10-10-10-10-10-10-10-10-10-
07/01/2015-12/31/2015	Fecal Coliform	400 daily maximum	>2000
01/01/2015-06/30/2015	BOD	30 monthly average/ 45 daily maximum	>2000 improper sampling, no results reported
01/01/2015-06/30/2015	pН	6 instantaneous min/ 9 instantaneous max	improper sampling, no results reported
01/01/2015-06/30/2015	TSS	30 monthly average/ 45 daily maximum	improper sampling, no results reported
01/01/2015-06/30/2015	Flow	REPORT	improper sampling, no results reported
01/01/2015-06/30/2015	Fecal Coliform	200 monthly average/ 400 daily maximum	improper sampling, no results reported
07/01/2014-12/31/2014	BOD	30 monthly average	31.2
01/01/2014-06/30/2014	BOD	30 monthly average	80.3
01/01/2014-06/30/2014	BOD	45 daily maximum	80.3
01/01/2014-06/30/2014	TSS	30 monthly average	71.5
01/01/2014-06/30/2014	TSS	45 daily maximum	71.5
01/01/2014-06/30/2014	Fecal Coliform	200 monthly average	>2000
01/01/2014-06/30/2014	Fecal Coliform	400 daily maximum	>2000
1/01/2014-06/30/2014	BOD	30 monthly average	85.3
1/01/2014-06/30/2014	BOD	45 daily maximum	>90.3
1/01/2014-06/30/2014	TSS	30 monthly average	100.3
1/01/2014-06/30/2014	TSS	45 daily maximum	129

0,949	Total Days in Violation		>2000
04/01/2012-06/30/2012	Fecal Coliform	100 /	>2000
04/01/2012-06/30/2012	TSS Fecal Coliform	45 daily maximum	150
04/01/2012-06/30/2012	TSS	30 monthly average	99
04/01/2012-06/30/2012	BOD	45 daily maximum	200
04/01/2012-06/30/2012	BOD	30 monthly average	149
04/01/2012-06/30/2012	Fecal Coliform	400 daily maximum	>2000
06/01/2012-12/31/2012	Fecal Coliform	200 monthly average	>2000
06/01/2012-12/31/2012	BOD	45 daily maximum	100
06/01/2012-12/31/2012		30 monthly average	54.2
06/01/2012-12/31/2012	Fecal Coliform BOD	400 daily maximum	>2000
07/01/2012-09/30/2012	Fecal Coliform	200 monthly average	>2000
07/01/2012-09/30/2012	Fecal Coliform	400 daily maximum	>2000
01/01/2013-03/31/2013	Fecal Coliform	200 monthly average	>2000
01/01/2013-03/31/2013	TSS	45 daily maximum	46
01/01/2013-03/31/2013	TSS	30 monthly average	46
01/01/2013-03/31/2013	BOD	45 daily maximum	74
01/01/2013-03/31/2013	BOD	30 monthly average	74
01/01/2013-03/31/2013	Fecal Coliform	400 daily maximum	>2000
01/01/2013-06/30/2013	Fecal Coliform	200 monthly average	>2000
01/01/2013-06/30/2013	TSS	45 daily maximum	46
01/01/2013-06/30/2013	TSS	30 monthly average	34.4
01/01/2013-06/30/2013	BOD	45 daily maximum	>95.4
01/01/2013-06/30/2013	BOD	30 monthly average	85
01/01/2013-06/30/2013	TSS	45 daily maximum	65
07/01/2013-12/31/2013	TSS	30 monthly average	65
07/01/2013-12/31/2013	BOD	45 daily maximum	70.2
07/01/2013-12/31/2013	BOD	30 monthly average	70.2
07/01/2013-12/31/2013	Fecal Coliform	400 daily maximum	>2000
01/01/2014-06/30/2014	Fecal Coliform	200 monthly average	>2000

Proper sampling is important for the reasons discussed above. Additionally, as stated above, compliance with numerical standards is essential to avoid actual harm to the environment of the Mississippi River and surrounding communities. High levels of Fecal Coliform from this

outfall are especially disconcerting as they indicate bacterial contamination associated with human waste.

H. Chem Carriers has repeatedly violated numerical effluent limitations at Outfall 011.

Part I of the LPDES permit requires weekly monitoring of certain parameters and monthly monitoring of other constituents at Outfall 011, "the intermittent discharge of treated sanitary wastewater from the Maintenance/Repair Shop." The permit contains numerical limitations for each constituent identified in Part I. The following chart documents exceedances of permit standards at Outfall 011:

Monitoring Period	Constituent	Standard	Measurement
10/01/2012-12/31/2012		30 monthly average	
10/01/2012-12/31/2012		30 monthly average	44
10/01/2012-12/31/2012	Fecal Coliform	200 monthly average	39
10/01/2012-12/31/2012	Fecal Coliform	400 daily maximum	>2000
07/01/2012-09/30/2012	BOD	30 monthly average	>2000
07/01/2012-09/30/2012	BOD	45 daily maximum	63
07/01/2012-09/30/2012	TSS	30 monthly average	63
07/01/2012-09/30/2012	TSS	45 daily maximum	50
07/01/2012-09/30/2012	Fecal Coliform	200 monthly average	50
07/01/2012-09/30/2012	Fecal Coliform	400 daily maximum	>2000
04/01/2012-06/30/2012	BOD	30 monthly average	>2000
04/01/2012-06/30/2012	BOD	45 daily maximum	48
04/01/2012-06/30/2012	TSS	30 monthly average	48
04/01/2012-06/30/2012	Fecal Coliform		43
04/01/2012-06/30/2012	Fecal Coliform	200 monthly average	>2000
,375	Total Days In Vie	400 daily maximum	>2000

As stated above, compliance with numerical standards is essential to avoid actual harm to the environment of the Mississippi River and surrounding communities.

Chem Carriers' pattern or practice of the above-described violations over the past five years reflects further permit violations related to best management practices.

The fact that Chem Carriers has repeatedly violated the same LPDES permit terms at the same outfalls over the past five years is also evidence of the following violations:

 Failure to use best management practices "to prevent the discharge of contaminated waters or cargo," including proper spill prevention and control measures and proper wastewater management (LPDES Permit Part II.I, General Requirements for Vessels)— especially with regard to the numerical exceedances describe above;

- Failure to "take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment," and to "take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with the permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge" (LPDES Permit Part III.B.2, Duty to Mitigate)—especially with regard to the numerical exceedances described above;
- Failure to "at all times properly operate and maintain all facilities and systems of treatment and control" (LPDES Permit Part III.B.3.a, Proper Operation and Maintenance)—especially with regard to improper sampling and reporting and inadequate treatment of sanitary wastewater prior to discharge; and
- Failure to ensure "adequate operating staff which is duly qualified" with regard to permit monitoring and compliance (LPDES Permit Part III.B.3.b, Proper Operation and Maintenance)—especially with regard to improper sampling and reporting.

V. Remedies

In accordance with Section 505(b) of the Act, 33 U.S.C. § 1365(b), LEAN and LMR hereby give formal notice of their intent to file suit against Chem Carriers in federal court, after the expiration of 60 days from the date of this notice. Copies of this notice are being provided to the State of Louisiana, through its Department of Environmental Quality, the U.S. Department of Justice, and the United States Environmental Protection Agency.

Pursuant to Section 309(d) of the Act, 33 U.S.C. § 1319(d), and the regulation allowing for the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Act subjects Chem Carriers to a penalty of up to \$32,500 per day per violation for all violations occurring up to December 6, 2013, up to \$37,500 per day per violation for all violations occurring after December 6, 2013 through November 2, 2015, and up to \$52,414 for violations occurring after November 2, 2015. This means that the maximum potential penalty for the 13,628 days of numerical standard and reporting violations alone exceeds \$450,000,000.

In addition to civil penalties, LEAN and LMR will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) of the Act, 33 U.S.C. §1365(a), and requiring Chem Carriers to remediate any damage to the Mississippi River. Finally, LEAN and LMR will seek to recover costs and fees associated with this action, including attorneys' fees, as allowed for prevailing parties under Section 505(d) of the Act, 33 U.S.C. § 1365(d).

VI. Conclusion

LEAN and LMR hope Chem Carriers will take prompt action to remedy the violations identified in this notice letter, and will meet with Chem Carriers to further discuss methods of compliance and answer any questions Chem Carriers may have. Please direct all correspondence to the undersigned counsel, via the address and telephone number below.

Sincerely,

Robert Wiygul 1011 Iberville Dr.

Ocean Springs, MS 39564 Phone: (228) 872-1125

cc: Certified Mail & Return Receipt Requested

Jeff Sessions, U.S. Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, NW Washington, DC 20530-0001

Certified Mail & Return Receipt Requested

Scott Pruitt, EPA Administrator Environmental Protection Agency Office of the Administrator, 1101A 1200 Pennsylvania Avenue, N.W. Washington, DC 20460-0003

Certified Mail & Return Receipt Requested

Samuel Coleman, EPA Region VI, Acting Regional Administrator Environmental Protection Agency Fountain Place 12th Floor, Suite 1200 1445 Ross Avenue Dallas, TX 75202-2733

Certified Mail & Return Receipt Requested

Chuck Carr Brown, Secretary Louisiana DEQ P.O. Box 4301 Baton Rouge, LA 70821-4301